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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.				
09/885,720	06/19/2001	Pierfrancesco La Mura	COM-003CIA	3300				
758 FENWICK & WEST LLP SILICON VALLEY CENTER 801 CALIFORNIA STREET MOUNTAIN VIEW, CA 94041	7590 08/23/2007		<table border="1"><tr><td colspan="2">EXAMINER</td></tr><tr><td colspan="2">FELTEN, DANIEL S</td></tr></table>		EXAMINER		FELTEN, DANIEL S	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/885,720

Applicant(s)

MURA ET AL.

Examiner

Daniel S. Felten

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 24 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-17, 24-26 and 62-65 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-17, 24-26 and 62-65 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Receipt of the petition under 37CFR 1.181 to revive the application has been GRANTED. Thus the abandonment of the application is hereby withdrawn.
2. Receipt of the amendment filed April 04, 2007 is acknowledged. Claims 1-9, 18-23 and 27-61 have been cancelled. Claim 65 has been amended. Claims 10-17, 24-26 and 62-65 are pending in the application and are presented to be examined upon their merits.

Response to Arguments

3. Applicant's arguments filed April 04, 2007 have been fully considered but they are not persuasive. The prior art has been discussed previously in the Office Action dated October 04, 2006. In regards to claim 10, wherein the applicant asserts that Brown discloses the item being auctioned is awarded to the winning group but does not disclose allocating the item among the bidders of the winning group, it is respectfully submitted the applicant that references are not read in isolation, but what they would suggest to one of ordinary skill in the art. In so doing, the examiner has the duty to give the broadest reasonable interpretation of the claim language in light the applicant's specification. Any interpretation provided to the applicant, should be devoid of reading limitations of the specification into the claim language. In Brown, it is suggested that an item is distributed/allocated to team members via lottery to at least one of the contributing bidders (see Brown, column 9, lines 5-18). However, the applicant can not effectively prove non-obviousness by arguing individual references where the examiner has used a combination of

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references and provided reasoning from the references what such combination would suggest to an artisan of ordinary skill in the art.

In regards to claim 62, Walker was used in combination with Brown to suggest subsequent rounds of bidding within an auction. Thus it is interpreted that one of ordinary skill in the art at the time of Brown would have used the method of subsequent rounds disclosed in Walker to provide additional excitement and competition to the auction. It is submitted that the combination of Brown and Walker suggests that it is old and well known in the art for a seller to provide goods and services for sale at the auction and for rounds of bidding to take place in an auction (see at least Brown back ground).

In regards to claim 65, the applicant provides a "wherein" clause to the claim language that suggests or makes optional (see MPEP 2106.04).

Thus for the following reasons, the rejections are maintained below:

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 10-17, 24-26 and 62-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over in view of Brown in view of Walker.

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Brown discloses, an online auction system servicing at least one seller and at least one bidder (see Abstract),

An interface module and transaction module(76----bid entry form)

in a processing device a product for a team (or tournament) auction system (see figs. 7-10)-*claims 10*

Partition participants into teams [110, 661] wherein a team comprises team members (38) (see col. 6, 11.53 to col. 8, 11.59)- *claims 10*

Determine a team bid and aggregating bids of team members (see col. 6 11.65 to col. 7. 11. 5; and col. 8, 11.4-18)-claims 10, 11, 12, 14, 26

Determine a winning team based on said team bid allocate items to said team (see col. 8, 11.36-46) -*claims 10, 13, 23*

A media readable by said processing device that stores said instructions (see col. 6, 11. 4 1 +)- *claim 10*

A participant chooses a team at the beginning of the team auction (see col. 6, 11.25-40)-*claim 15*

Brown fails to disclose proceeding to at least an additional round. Walker discloses an auctioning embodiment where the end users create request and submit them to a central controller. The request are submitted to a pool of bidders which bid over a number of rounds (see Walker col. 38, 11. 12+). It would have been obvious for an artisan at the time of the invention

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of Brown to recognize the advantages of multi-round auction to provide the bidders with a more than one shot to acquire a good and/or service. Thus an artisan of ordinary skill at the time of the invention would have been motivated to provide a greater opportunity for competing bidders to acquire goods and services as well as provide the seller with a better price for the good or service.

--Also see reasoning provided above in the Response to Arguments for Brown and

Walker disclosing:

--a mechanism module operatively coupled with said interface module to interactively drive transaction module so as to perform transactions according to at least one auction rule defined by said mechanism module, as in claims 10 and 62 --admit to each of a subsequent round of bidding a subset of bidders from a previous round responsive to a bid value placed by each of said plurality of bidders, wherein said subset of bidders are assessed a payment in response to being admitted in each subsequent round, as in claims 65.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel S. Felten whose telephone number is (571) 272-6742. The examiner can normally be reached on Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Daniel S Felten

Examiner

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DSF

08/16/2007